

**Edward R. Tremblay**

**v.**

**Town of Brookline**

**Docket No. 4136-88**

**DECISION**

A hearing in this appeal was held, as scheduled, on February 20, 1990. The Taxpayer represented himself. The Town was represented by Philip H. Winter, Chairman, Board of Assessors of Brookline.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$48,200 (land, \$13,880 [2.689 acres]; buildings, \$34,400) placed on his real estate, located on Bohannon Bridge Road (Map K, Lot 13N) for the 1988 tax year.

The Taxpayer appeals the assessments of 1979-1985 based on the argument that he was erroneously charged for land he did not own - and never claimed that he owned.

The Town also presented evidence that the Taxpayer was not charged for a two story addition for the years 1981, 1982, 1983, 1984 and 1985 . . .through an oversight by the Town. The Taxpayer had applied for and been granted a building permit for the work.

The first issue is whether this Board has jurisdiction to order an abatement for any years prior to the year properly brought before the Board. The Board rules that, based on RSA 76:16, RSA 76:16-a (1988 supp), and Tax 201.01(c), the Taxpayers must appeal each year within four months of notice of the final tax bill to the local assessing officials and within six months of notice of the final tax bill to the Board to protect their appeal rights for each year.

RSA 76:16 states:

By Selectmen or Assessors. Selectmen or assessors, for good cause shown, may abate any tax assessed by them or

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by their predecessors. Any person aggrieved by the assessment of a tax and who has complied with the requirements of RSA 74, may, within four months after notice of the tax, and not afterwards, apply in writing to the selectmen or assessors for an abatement of the tax. (emphasis added)

RSA 76:16-a (1988 supp) states in part:

By Board of Tax and Land Appeals.

I. If the selectmen neglect or refuse to so abate, any person aggrieved, having complied with the requirements of RSA 74, upon payment of a filing fee equal to the filing fee established by law for bills in equity in the superior court, may, within 6 months after notice of such tax, and not afterwards, apply in writing to the board of tax and land appeals which, after inquiry and investigation, shall hold a hearing if requested as provided in this section and shall make such order thereon as justice requires; and, such order shall be enforceable as provided hereafter. "Notice of such tax" means the date the department of revenue administration determines to be the last date of mailing of tax bills by the taxing district. (emphasis added)

Board Rule Tax 201.02(c) states:

An appeal to the board may be made only if the taxpayer has first made an application for abatement in writing to the board of selectmen or other local assessing official(s) within 4 months of notice of the final tax bill. "Notice of the final tax bill" means the date the department of revenue administration determines to be the last date of mailing of tax bills by the taxing district. No fee is charged for the application for abatement to the selectmen or other local assessing official(s). If a decision is not made by the selectmen or assessors or if the taxpayer is not satisfied with the results of the application for abatement, the taxpayer may then enter an appeal with the board or petition the superior court of the county within 6 months of notice of the tax, and not later. If the taxpayer's choice is to file an appeal with the board, then such action shall be deemed a waiver of any right to petition the superior court and vice versa.

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As to the second issue of the market value of the property on April 1, 1988, the Board finds no evidence to the contrary that the assessment is a fair representation of market value.

The Board therefore rules the Taxpayer has have failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayer's just share of the common tax burden. The ruling is, therefore: Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Anne S. Richmond, Esq., Chairman

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George Twigg, III, Member

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(Mr. Donahue did not sit.)  
Peter J. Donahue, Member

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Paul B. Franklin, Member

Date: April 19, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Edward R. Tremblay, taxpayer; and Chairman, Selectmen of Brookline.

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Michele E. LeBrun, Clerk

Date: April 19, 1990

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